STATUTORY INSTRUMENTS

2024 No. 1243

COMPETITION

CONSUMER PROTECTION

The Digital Markets, Competition and Consumers Act 2024 and Consumer Rights Act 2015 (Turnover and Control) Regulations 2024

Made - - - -	*25th November 2024*
Laid before Parliament	*29th November 2024*
Coming into force in accordance with regulation 1(2) and (3)	

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraph 16H(2) to (4) of Schedule 5 to the Consumer Rights Act 2015(**a**) and sections 8(4) and (5), 90(2) and (3), 204(2) to (4), 312(6) and (7), and 337(1)(b) of the Digital Markets, Competition and Consumers Act 2024(**b**).

PART 1

General

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Digital Markets, Competition and Consumers Act 2024 and Consumer Rights Act 2015 (Turnover and Control) Regulations 2024.

(2) This Part and Parts 2 and 4 of these Regulations come into force on 1st January 2025.

(3) Part 3 of these Regulations comes into force on 6th April 2025.

(4) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(5) In these Regulations—

"the 2015 Act" means the Consumer Rights Act 2015;

"the 2024 Act" means the Digital Markets, Competition and Consumers Act 2024.

(**a**) 2015 c. 15. Paragraph 16H is inserted by paragraph 2 of Schedule 17 to the Digital Markets, Competition and Consumers Act 2024 (c. 13) ("the 2024 Act") on a date to be appointed. The regulation-making power in paragraph 16H was commenced, for limited purposes, by section 339(2)(c) of the 2024 Act on 24th May 2024.

(**b**) 2024 c. 13.

PART 2

Digital markets: strategic market status and enforcement

Estimation of turnover for the purposes of section 7 of the 2024 Act (turnover condition: strategic market status)

2. The total value of the global turnover or UK turnover(**a**) of an undertaking(**b**) or group(**c**) in a period(**d**) is to be estimated for the purposes of section 7 of the 2024 Act (turnover condition: strategic market status) in accordance with Schedule 1.

Determination of turnover and daily turnover for the purposes of sections 86 and 88 of the 2024 Act (amount of penalties under sections 85 and 87: failure to comply with competition and investigative requirements)

3.—(1) This regulation applies for the purposes of determining the turnover and daily turnover (both inside and outside the United Kingdom) of an undertaking or group for the purposes of sections 86(4) and (5) and 88(3) and (4) of the 2024 Act (amount of penalties under sections 85 and 87: failure to comply with competition and investigative requirements).

(2) Subject to paragraphs (3) to (6), the turnover of an undertaking or group is its turnover in—

(a) the last accounting period to end before the relevant date (its "relevant accounting period"), or

(b) if the undertaking or group has no accounting period that ends before the relevant date, the period beginning with the day on which the activities of the undertaking or group began to be carried on and ending with the last day of the month preceding the month in which the relevant date falls.

(3) If the CMA(**e**) estimates on the relevant date that the turnover of the undertaking or group in the accounting period immediately preceding its relevant accounting period (the "preceding accounting period") was higher than the turnover of the undertaking or group in its relevant accounting period, the turnover is its turnover in the preceding accounting period.

(4) If the figures necessary to calculate turnover of the undertaking or group in its relevant accounting period are not available to the CMA on the relevant date, the turnover is (subject to paragraph (5)) its turnover in—

(a) the preceding accounting period, or

(b) if the undertaking or group has no preceding accounting period, the period beginning with the day on which the activities of the undertaking or group began to be carried on and ending with the day immediately preceding the date on which its relevant accounting period began.

(5) If the figures necessary to calculate the turnover of the undertaking or group under paragraph (4)(a) or (b) are not available to the CMA on the relevant date, the turnover of the undertaking

(**a**) Section 8(2) of the 2024 Act defines the total value of the global turnover of an undertaking or group for the purposes of the turnover condition in section 7 of that Act. Section 8(3) of the 2024 Act defines the total value of the UK turnover of an undertaking or group; paragraph 6(2) of Schedule 1 to these Regulations makes further provision about determining whether the turnover of an undertaking or group is relating to UK users or UK customers.

(**b**) Section 118(1) of the 2024 Act defines "undertaking" with reference to Part 1 of the Competition Act 1998 (c. 41).

(**c**) Section 117 of the 2024 Act makes provision about groups for the purposes of Part 1 of that Act.

(**d**) In accordance with section 8(4) of the 2024 Act, these Regulations make provision for the estimation of turnover for a period. Section 7(6)(a) of the 2024 Act defines the "relevant period" for the purposes of the turnover condition. The CMA is to determine which is the relevant period in respect of a particular undertaking or group with reference to its estimation of turnover for that undertaking or group, made in accordance with section 8 of the 2024 Act and Schedule 1 to these Regulations.

(**e**) Section 330 of the 2024 Act defines "the CMA" as the Competition and Markets Authority.

or group is its turnover in the period beginning with the day after the last day of its relevant accounting period and ending with the last day of the month preceding the month in which the relevant date falls.

(6) Where the period by reference to which turnover is calculated does not equal 12 months, the turnover of the undertaking or group is the turnover in that period divided by the number of days in that period and multiplied by 365 or, if the period includes 29th February, 366.

(7) The daily turnover of the undertaking or group is the turnover divided by 365 or, if the period by reference to which turnover is calculated includes 29th February, 366.

(8) For the purposes of this regulation—

(a) an "accounting period" of an undertaking or group is a period of more than six months in respect of which accounts are prepared or required to be prepared in relation to the undertaking or group;

(b) the "relevant date" means the date on which the provisional penalty notice is issued under section 112(A1) of the Enterprise Act 2002 (penalties: main procedural requirements)(**a**) where the CMA is minded to impose a penalty under section 85 or 87 of the 2024 Act;

(c) the provisions of Schedule 2 apply in the determination of turnover.

PART 3

Consumer protection law: enforcement

Chapter 1

The 2024 Act

Determination of control of a person for the purposes of section 204 of the 2024 Act (determination of turnover for the purposes of Part 3: monetary penalties)

4.—(1) This regulation applies for the purposes of determining when a person is to be treated as controlled by another person for the purposes of section 204(1)(b) and (c) of the 2024 Act (determination of turnover for the purposes of Part 3: monetary penalties).

(2) A person is to be treated as controlled by another person ("A") when—

(a) the person is a body corporate in which A has a controlling interest,

(b) the person is a body corporate, and A is able to control directly or indirectly, or materially influence, the policy of that body corporate without having a controlling interest in that body corporate,

(c) the person is a partnership or an unincorporated association or body, and A (whether or not A is a member of that partnership, association or body) is able to control directly or indirectly, or materially influence, the policy of that partnership, association or body, or

(d) the person is a sole trader, and A is able to control directly or indirectly, or materially influence, the policy of that sole trader in carrying on the activities of their business.

(3) For the purposes of paragraph (2)(a), A has a controlling interest in a body corporate if A—

(**a**) 2002 c. 40. Section 112(A1) is inserted by paragraph 18 of Schedule 10 to the 2024 Act. Section 112(A1) requires the CMA to issue a provisional penalty notice before a penalty can be imposed under section 85 or 87 of the 2024 Act, per section 89 of that Act.

(a) is a parent undertaking of that body corporate within the meaning of section 1162 of the Companies Act 2006 (parent and subsidiary undertakings)(**a**), or

(b) would be a parent undertaking of that body corporate within the meaning of that section if A were an undertaking within the meaning of section 1161 of that Act (meaning of "undertaking" and related expressions),

and the reference in paragraph (2)(b) to A not having a controlling interest is to be construed accordingly.

(4) For the purposes of paragraph (3), subsections (2)(c) and (4)(a) of section 1162 of the Companies Act 2006 are to be disregarded.

(5) For the purposes of paragraph (2)(b), (c) and (d), the court or, as the case may be, the CMA may determine whether A is able to control directly or indirectly, or materially influence, the policy of a body corporate, a partnership or an unincorporated association or body, or the policy of a sole trader in carrying on the activities of their business.

(6) References in this regulation to a body corporate include a body incorporated outside the United Kingdom; and references to a partnership or an unincorporated association or body include a partnership or unincorporated association or body formed or established, or having any members incorporated, formed or established, outside the United Kingdom.

Determination of turnover and daily turnover for the purposes of Part 3 of the 2024 Act (enforcement of consumer protection law)

5.—(1) This regulation applies for the purposes of determining the turnover or the turnover and daily turnover (as the case may be) of a person for the purposes of the following sections in Part 3 of the 2024 Act (enforcement of consumer protection law)—

(a) section 158(5) (enforcement orders: requirement to pay monetary penalty);

(b) section 168(3) (monetary penalties under sections 166 and 167: amount);

(c) section 182(6) (final infringement notice);

(d) section 190(3) (monetary penalties under section 189: amount);

(e) section 193(3) (monetary penalties under section 192: amount);

(f) section 198(4) (final false information enforcement notice)(**b**).

(2) Subject to paragraphs (3) to (6), the turnover of a person is its turnover in—

(a) the last accounting period to end before the relevant date (its "relevant accounting period"), or

(b) if the person has no accounting period that ends before the relevant date, the period beginning with the day on which the activities of the person began to be carried on and ending with the last day of the month preceding the month in which the relevant date falls.

(3) If the CMA or, as the case may be, the court estimates on the relevant date that the turnover of the person in the accounting period immediately preceding its relevant accounting period (the "preceding accounting period") was higher than the turnover of the person in its relevant accounting period, the turnover is its turnover in the preceding accounting period.

(**a**) 2006 c. 46.

(**b**) Section 204(2) refers to the turnover of a "person" and section 204(3) refers to a "person's" turnover or daily turnover. Sections 158(5), 168(3), 182(6), 190(3), 193(3) and 198(4), however, refer to the total value of the turnover of the "respondent". Sections 190(3) and 193(3) also refer to the total value of the daily turnover of the "respondent".

(4) If the figures necessary to calculate turnover of the person in its relevant accounting period are not available to the CMA or, as the case may be, the court on the relevant date, the turnover is (subject to paragraph (5)) its turnover in—

(a) the preceding accounting period, or

(b) if the person has no preceding accounting period, the period beginning with the day on which the activities of the person began to be carried on and ending with the day immediately preceding the date on which its relevant accounting period began.

(5) If the figures necessary to calculate the turnover of the person under paragraph (4)(a) or (b) are not available to the CMA or, as the case may be, the court on the relevant date, the turnover of the person is its turnover in the period beginning with the day after the last day of its relevant accounting period and ending with the last day of the month preceding the month in which the relevant date falls.

(6) Where the period by reference to which turnover is calculated does not equal 12 months, the turnover of the person is the turnover in that period divided by the number of days in that period and multiplied by 365 or, if the period includes 29th February, 366.

(7) The daily turnover of the person is the turnover divided by 365 or, if the period by reference to which turnover is calculated includes 29th February, 366.

(8) For the purposes of this regulation—

(a) an "accounting period" of a person is a period of more than six months in respect of which accounts are prepared or required to be prepared in relation to the person;

(b) the "relevant date" means—

(i) in the case of a monetary penalty imposed under section 158(2) of the 2024 Act (enforcement orders: requirement to pay monetary penalty), the date on which the enforcer made the original application to the court under section 153(1) of that Act (applications for an enforcement order or interim enforcement order);

(ii) in the case of a monetary penalty imposed under section 166(5)(b) of the 2024 Act (consumer protection orders or undertakings to court: further proceedings), the date on which the enforcer made the application to the court under section 166(3) of that Act;

(iii) in the case of a monetary penalty imposed under section 167(4)(b) of the 2024 Act (undertakings to public designated enforcers: further proceedings), the date on which the enforcer applies to the court in respect of a failure to comply with an undertaking under section 167(2) of that Act;

(iv) in the case of a monetary penalty imposed under section 182(4)(b) of the 2024 Act (final infringement notice), the date on which the CMA gave to the respondent a notice under section 181(3) of that Act (provisional infringement notice);

(v) in the case of a monetary penalty imposed under section 189(3)(b) of the 2024 Act (final breach of undertakings enforcement notice), the date on which the CMA gave to the respondent a notice under section 188(2) of that Act (provisional breach of undertakings enforcement notice);

(vi) in the case of a monetary penalty imposed under section 192(3) of the 2024 Act (final breach of directions enforcement notice), the date on which the CMA gave to the respondent a notice under section 191(2) of that Act (provisional breach of directions enforcement notice);

(vii) in the case of a monetary penalty imposed under section 198(3) of the 2024 Act (final false information enforcement notice), the date on which the CMA gave to the respondent a notice under section 197(2) of that Act (provisional false information enforcement notice);

(c) the provisions of Schedule 3 apply in the determination of turnover.

Chapter 2

The 2015 Act

Determination of control of a person for the purposes of paragraph 16H of Schedule 5 to the 2015 Act (meaning of turnover for purposes of paragraphs 16A and 16C: investigatory powers in relation to the production of information)

6.—(1) This regulation applies for the purposes of determining when a person is to be treated as controlled by another person for the purposes of paragraph 16H(1)(b) and (c) of Schedule 5 to the 2015 Act (meaning of turnover for purposes of paragraphs 16A and 16C: investigatory powers in relation to the production of information).

(2) A person is to be treated as controlled by another person ("A") when—

(a) the person is a body corporate in which A has a controlling interest,

(b) the person is a body corporate, and A is able to control directly or indirectly, or materially influence, the policy of that body corporate without having a controlling interest in that body corporate,

(c) the person is a partnership or an unincorporated association or body, and A (whether or not A is a member of that partnership, association or body) is able to control directly or indirectly, or materially influence, the policy of that partnership, association or body, or

(d) the person is a sole trader, and A is able to control directly or indirectly, or materially influence, the policy of that sole trader in carrying on the activities of their business.

(3) For the purposes of paragraph (2)(a), A has a controlling interest in a body corporate if A—

(a) is a parent undertaking of that body corporate within the meaning of section 1162 of the Companies Act 2006 (parent and subsidiary undertakings), or

(b) would be a parent undertaking of that body corporate within the meaning of that section if A were an undertaking within the meaning of section 1161 of that Act (meaning of "undertaking" and related expressions),

and the reference in paragraph (2)(b) to A not having a controlling interest is to be construed accordingly.

(4) For the purposes of paragraph (3), subsections (2)(c) and (4)(a) of section 1162 of the Companies Act 2006 are to be disregarded.

(5) For the purposes of paragraph (2)(b), (c) and (d), the court or, as the case may be, the CMA may determine whether A is able to control directly or indirectly, or materially influence, the policy of a body corporate, a partnership or an unincorporated association or body, or the policy of a sole trader in carrying on the activities of their business.

(6) References in this regulation to a body corporate include a body incorporated outside the United Kingdom; and references to a partnership or an unincorporated association or body include a partnership or unincorporated association or body formed or established, or having any members incorporated, formed or established, outside the United Kingdom.

Determination of turnover and daily turnover for the purposes of paragraph 16H of Schedule 5 to the 2015 Act (meaning of turnover for purposes of paragraphs 16A and 16C: investigatory powers in relation to the production of information)

7.—(1) This regulation applies for the purposes of determining the turnover and daily turnover of a person for the purposes of paragraph 16H(1) of Schedule 5 to the 2015 Act (meaning of turnover for purposes of paragraphs 16A and 16C: investigatory powers in relation to the production of information).

(2) Subject to paragraphs (3) to (6), the turnover of a person is its turnover in—

(a) the last accounting period to end before the relevant date (its "relevant accounting period"), or

(b) if the person has no accounting period that ends before the relevant date, the period beginning with the day on which the activities of the person began to be carried on and ending with the last day of the month preceding the month in which the relevant date falls.

(3) If the court or, as the case may be, the CMA estimates on the relevant date that the turnover of the person in the accounting period immediately preceding its relevant accounting period (the "preceding accounting period") was higher than the turnover of the person in its relevant accounting period, the turnover is its turnover in the preceding accounting period.

(4) If the figures necessary to calculate turnover of the person in its relevant accounting period are not available to the court or, as the case may be, the CMA on the relevant date, the turnover is (subject to paragraph (5)) its turnover in—

(a) the preceding accounting period, or

(b) if the person has no preceding accounting period, the period beginning with the day on which the activities of the person began to be carried on and ending with the day immediately preceding the date on which its relevant accounting period began.

(5) If the figures necessary to calculate the turnover of the person under paragraph (4)(a) or (b) are not available to the court or, as the case may be, the CMA on the relevant date, the turnover of the person is its turnover in the period beginning with the day after the last day of its relevant accounting period and ending with the last day of the month preceding the month in which the relevant date falls.

(6) Where the period by reference to which turnover is calculated does not equal 12 months, the turnover of the person is the turnover in that period divided by the number of days in that period and multiplied by 365 or, if the period includes 29th February, 366.

(7) The daily turnover of the person is the turnover divided by 365 or, if the period by reference to which turnover is calculated includes 29th February, 366.

(8) For the purposes of this regulation—

(a) an "accounting period" of a person is a period of more than six months in respect of which accounts are prepared or required to be prepared in relation to the person;

(b) the "relevant date" means—

(i) in the case of a monetary penalty imposed under paragraph 16A(3) of Schedule 5 to the 2015 Act (non-compliance with notice under paragraph 14: power of court to impose monetary penalties)(**a**), the date on which the enforcer or, as the case may be, an officer of the enforcer applies to the court under paragraph 16A(2) of that Schedule;

(**a**) Paragraph 16A is inserted by paragraph 2 of Schedule 17 to the 2024 Act.

(ii) in the case of a monetary penalty imposed under paragraph 16C(2)(a) of Schedule 5 to the 2015 Act (non-compliance with notice under paragraph 14: power of CMA to give final enforcement notice)(**a**), the date on which the CMA gave to the respondent a provisional enforcement notice under paragraph 16B(2) of that Schedule (non-compliance with notice under paragraph 14: power of CMA to give provisional enforcement notice)(**b**);

(c) the provisions of Schedule 3 apply in the determination of turnover.

PART 4

Competition in connection with motor fuel

Determination of turnover and daily turnover for the purposes of section 312 of the 2024 Act (penalties for failure to comply with notices under section 311: provision of information about competition in connection with motor fuel)

8.—(1) This regulation applies for the purposes of determining the turnover and daily turnover (both inside and outside the United Kingdom) of an undertaking for the purposes of section 312(4) of the 2024 Act (penalties for failure to comply with notices under section 311: provision of information about competition in connection with motor fuel).

(2) Subject to paragraphs (3) to (6), the turnover of an undertaking is its turnover in—

(a) the last accounting period to end before the relevant date (its "relevant accounting period"), or

(b) if the undertaking has no accounting period that ends before the relevant date, the period beginning with the day on which the activities of the undertaking began to be carried on and ending with the last day of the month preceding the month in which the relevant date falls.

(3) If the CMA estimates on the relevant date that the turnover of the undertaking in the accounting period immediately preceding its relevant accounting period (the "preceding accounting period") was higher than the turnover of the undertaking in its relevant accounting period, the turnover is its turnover in the preceding accounting period.

(4) If the figures necessary to calculate turnover of the undertaking in its relevant accounting period are not available to the CMA on the relevant date, the turnover is (subject to paragraph (5)) its turnover in—

(a) the preceding accounting period, or

(b) if the undertaking has no preceding accounting period, the period beginning with the day on which the activities of the undertaking began to be carried on and ending with the day immediately preceding the date on which its relevant accounting period began.

(5) If the figures necessary to calculate the turnover of the undertaking under paragraph (4)(a) or (b) are not available to the CMA on the relevant date, the turnover of the undertaking is its turnover in the period beginning with the day after the last day of its relevant accounting period and ending with the last day of the month preceding the month in which the relevant date falls.

(6) Where the period by reference to which turnover is calculated does not equal 12 months, the turnover of the undertaking is the turnover in that period divided by the number of days in that period and multiplied by 365 or, if the period includes 29th February, 366.

(**a**) Paragraph 16C is inserted by paragraph 2 of Schedule 17 to the 2024 Act.
(**b**) Paragraph 16B is inserted by paragraph 2 of Schedule 17 to the 2024 Act.

(7) The daily turnover of the undertaking is the turnover divided by 365 or, if the period by reference to which turnover is calculated includes 29th February, 366.

(8) For the purposes of this regulation—

(a) an "accounting period" of an undertaking is a period of more than six months in respect of which accounts are prepared or required to be prepared in relation to the undertaking;

(b) the "relevant date" means the date on which the provisional penalty notice is issued under section 112(A1) of the Enterprise Act 2002 (penalties: main procedural requirements)**(a)** where the CMA is minded to impose a penalty under section 312(1) of the 2024 Act;

(c) the provisions of Schedule 4 apply in the determination of turnover.

Justin Madders
Parliamentary Under Secretary of State
Department for Business and Trade

25th November 2024

(**a**) Section 112(A1) requires the CMA to issue a provisional penalty notice before a penalty can be imposed under section 312 of the 2024 Act, per section 313 of that Act.

SCHEDULES

SCHEDULE 1

Regulation 2

Estimation of turnover of an undertaking or group (turnover condition)

Interpretation

1.—(1) In this Schedule—

"credit institution" means a credit institution as defined in section 417 of the Financial Services and Markets Act 2000 (definitions)(**a**);

"financial institution" means a financial institution as defined in Article 4(1)(26) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (definitions)(**b**), or any undertaking located outside the United Kingdom which does not fall within that definition but which carries on equivalent activities;

"insurance undertaking" means—

(a) an insurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(b) a reinsurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(c) an overseas insurance undertaking, or

(d) an overseas reinsurance undertaking;

"overseas insurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance as principal;

"overseas reinsurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance that are limited to reinsurance contracts as principal.

(2) The provisions of this Schedule are to be interpreted in accordance with generally accepted accounting principles and practices.

Turnover of an undertaking or group

2.—(1) For the purposes of estimating the total value of global turnover and UK turnover, the turnover of an undertaking is the sum of all amounts derived directly or indirectly by the

(**a**) 2000 c. 8. Section 417 was amended by S.I. 2019/632; there are other amendments not relevant to these Regulations.
(**b**) EUR 575/2013 was amended by paragraph 2(4) of Schedule 1 to the Financial Services Act 2021 (c. 22) and S.I. 2019/1232.

undertaking from its supply of products(**a**), after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

(2) Where the undertaking is part of a group, the turnover of that group is the sum of all amounts derived directly or indirectly by each member of the group from the supply of products, after the deduction of sales rebates, value added tax and other taxes directly related to turnover, save that no account is to be taken of any turnover resulting from the supply of products between members of the group.

(3) Paragraphs 5 and 6 also apply to estimate the turnover of an undertaking or group.

(4) But where all or any of the activities of an undertaking or group are the activities of a credit institution, a financial institution or an insurance undertaking, paragraph 3 or 4 (as the case may be) applies instead of this paragraph to estimate the turnover of the undertaking or group in respect of those activities.

Turnover in respect of activities as a credit institution or financial institution

3.—(1) The turnover of an undertaking or group in respect of its activities as a credit institution or financial institution is the sum of the following income items received by the undertaking or group, after the deduction of value added tax and other taxes directly related to those items—

(a) interest income and similar income;

(b) the following income from securities—

(i) income from shares and other variable yield securities;

(ii) income from participating interests;

(iii) income from shares in affiliated undertakings;

(c) commissions receivable;

(d) net profit on financial operations;

(e) other operating income.

(2) Expressions used in sub-paragraph (1) have the meanings given by Council Directive (EEC) 86/635 of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions(**b**).

(3) Where the undertaking is part of a group, no account is to be taken of any turnover resulting from any transaction between the undertaking and any member of the group.

(4) Paragraphs 5 and 6 also apply to estimate the turnover of an undertaking or group in respect of its activities as a credit institution or financial institution.

Turnover in respect of activities as an insurance undertaking

4.—(1) The turnover of an undertaking or group in respect of its activities as an insurance undertaking is the total value of gross premiums received, comprising all amounts received and receivable in respect of insurance contracts issued by or on behalf of the undertaking or group, including outgoing reinsurance premiums, and after the deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

(2) Where the undertaking is part of a group, no account is to be taken of any turnover resulting from any transaction between the undertaking and any member of the group.

(**a**) Section 118 of the 2024 Act defines "product" for the purposes of Part 1 of that Act.

(**b**) OJ No. L372, 31.12.86, p.1, amended by Directives 2001/65/EC (OJ No. L 283, 27.10.01, p. 28), 2003/51/EC (OJ No. L178, 17.7. 03, p. 16), and 2006/46/EC (OJ No. L224, 16.8.06, p. 1).

(3) Paragraphs 5 and 6 also apply to estimate the turnover of an undertaking or group in respect of its activities as an insurance undertaking.

Subsidies

5.—(1) The turnover of an undertaking or group includes any subsidy given to the undertaking or group, determined in accordance with this paragraph.

(2) For the purposes of sub-paragraph (1), "subsidy" means financial assistance which—

(a) is given, directly or indirectly, from public resources by a public authority,

(b) confers an economic advantage on one or more undertakings or groups, and

(c) is specific such that it benefits one or more undertakings or groups over one or more other undertakings or groups with respect to the production or supply of products.

(3) For the purposes of sub-paragraph (2), the means by which financial assistance may be given include—

(a) a direct transfer of funds (such as grants or loans);

(b) a contingent transfer of funds (such as guarantees);

(c) the forgoing of revenue that is otherwise due;

(d) the supply of products;

(e) the purchase of products.

(4) For the purposes of sub-paragraph (2)(a), "public authority" means a person who exercises functions of a public nature.

(5) Financial assistance given by a person who is not a public authority is to be treated for the purposes of sub-paragraph (2)(a) as financial assistance given from public resources by a public authority if the involvement of a public authority in the decision to give financial assistance is such that the decision is, in substance, the decision of the public authority.

(6) For the purposes of sub-paragraph (5), the factors which may be taken into account when considering the involvement of a public authority in the decision of a person to give financial assistance include, in particular, factors relating to—

(a) the control exercised over that person by that public authority, or

(b) the relationship between that person and that public authority.

(7) For the purposes of this paragraph, financial assistance is to be treated as given to an undertaking or group if the undertaking or group has an enforceable right to the financial assistance.

Further provisions about estimating turnover

6.—(1) Where an undertaking consists of two or more undertakings that each prepare accounts, the turnover is to be estimated by adding together the respective turnover of each, save that no account is to be taken of any turnover resulting from the supply of products between them.

(2) When determining whether the turnover of an undertaking or group is relating to UK users or UK customers(**a**), for the purpose of estimating the total value of the UK turnover of the undertaking or group, the CMA must have regard to—

(a) whether the amounts referred to in paragraphs 2(1) and (2), 3(1) and 4(1) are derived in connection with the direct or indirect supply of products to UK users or UK customers;

(**a**) Section 8(3) of the 2024 Act sets out that the total value of the UK turnover of an undertaking or group in a relevant period (as defined in section 7(6)(a)) is, subject to these Regulations, the total value of the turnover of the undertaking or group: (a) arising in connection with any of its activities; and (b) relating to UK users or UK customers.

(b) whether the amounts referred to in paragraphs 2(1) and (2), 3(1) and 4(1) are derived in connection with products which are used, viewed or otherwise consumed by UK users or UK customers;

(c) such other factors as the CMA considers appropriate.

(3) Where in the accounts or other information used by the CMA to estimate turnover of an undertaking or group any figure is expressed in a currency other than sterling, the CMA may determine the equivalent in sterling, applying whatever rate or rates of exchange the CMA considers appropriate and rounding the resulting figure up or down as the CMA considers appropriate.

SCHEDULE 2

Regulation 3

Determination of turnover of an undertaking or group (penalties for failure to comply with competition and investigative requirements)

Interpretation

1.—(1) In this Schedule—

"credit institution" means a credit institution as defined in section 417 of the Financial Services and Markets Act 2000 (definitions);

"financial institution" means a financial institution as defined in Article 4(1)(26) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (definitions), or any undertaking located outside the United Kingdom which does not fall within that definition but which carries on equivalent activities;

"insurance undertaking" means—

(a) an insurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(b) a reinsurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(c) an overseas insurance undertaking, or

(d) an overseas reinsurance undertaking;

"overseas insurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance as principal;

"overseas reinsurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance that are limited to reinsurance contracts as principal.

(2) The provisions of this Schedule are to be interpreted in accordance with generally accepted accounting principles and practices.

Turnover of an undertaking or group

2.—(1) The turnover of an undertaking is the sum of all amounts derived directly or indirectly by the undertaking from its supply of products, after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

(2) Where the undertaking is part of a group, the turnover of that group is the sum of all amounts derived directly or indirectly by each member of the group from the supply of products, after the deduction of sales rebates, value added tax and other taxes directly related to turnover, save that no account is to be taken of any turnover resulting from the supply of products between members of the group.

(3) Paragraphs 5 and 6 also apply to determine the turnover of an undertaking or group.

(4) But where all or any of the activities of an undertaking or group are the activities of a credit institution, a financial institution or an insurance undertaking, paragraph 3 or 4 (as the case may be) applies instead of this paragraph to determine the turnover of the undertaking or group in respect of those activities.

Turnover in respect of activities as a credit institution or financial institution

3.—(1) The turnover of an undertaking or group in respect of its activities as a credit institution or financial institution is the sum of the following income items received by the undertaking or group, after the deduction of value added tax and other taxes directly related to those items—

(a) interest income and similar income;

(b) the following income from securities—

(i) income from shares and other variable yield securities;

(ii) income from participating interests;

(iii) income from shares in affiliated undertakings;

(c) commissions receivable;

(d) net profit on financial operations;

(e) other operating income.

(2) Expressions used in sub-paragraph (1) have the meanings given by Council Directive (EEC) 86/635 of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions.

(3) Where the undertaking is part of a group, no account is to be taken of any turnover resulting from any transaction between the undertaking and any member of the group.

(4) Paragraphs 5 and 6 also apply to determine the turnover of an undertaking or group in respect of its activities as a credit institution or financial institution.

Turnover in respect of activities as an insurance undertaking

4.—(1) The turnover of an undertaking or group in respect of its activities as an insurance undertaking is the total value of gross premiums received, comprising all amounts received and receivable in respect of insurance contracts issued by or on behalf of the undertaking or group, including outgoing reinsurance premiums, and after the deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

(2) Where the undertaking is part of a group, no account is to be taken of any turnover resulting from any transaction between the undertaking and any member of the group.

(3) Paragraphs 5 and 6 also apply to determine the turnover of an undertaking or group in respect of its activities as an insurance undertaking.

Subsidies

5.—(1) The turnover of an undertaking or group includes any subsidy given to the undertaking or group, determined in accordance with this paragraph.

(2) For the purposes of sub-paragraph (1), "subsidy" means financial assistance which—

(a) is given, directly or indirectly, from public resources by a public authority,

(b) confers an economic advantage on one or more undertakings or groups, and

(c) is specific such that it benefits one or more undertakings or groups over one or more other undertakings or groups with respect to the production or supply of products.

(3) For the purposes of sub-paragraph (2), the means by which financial assistance may be given include—

(a) a direct transfer of funds (such as grants or loans);

(b) a contingent transfer of funds (such as guarantees);

(c) the forgoing of revenue that is otherwise due;

(d) the supply of products;

(e) the purchase of products.

(4) For the purposes of sub-paragraph (2)(a), "public authority" means a person who exercises functions of a public nature.

(5) Financial assistance given by a person who is not a public authority is to be treated for the purposes of sub-paragraph (2)(a) as financial assistance given from public resources by a public authority if the involvement of a public authority in the decision to give financial assistance is such that the decision is, in substance, the decision of the public authority.

(6) For the purposes of sub-paragraph (5), the factors which may be taken into account when considering the involvement of a public authority in the decision of a person to give financial assistance include, in particular, factors relating to—

(a) the control exercised over that person by that public authority, or

(b) the relationship between that person and that public authority.

(7) For the purposes of this paragraph, financial assistance is to be treated as given to an undertaking or group if the undertaking or group has an enforceable right to the financial assistance.

Further provisions about determining turnover

6.—(1) Where an undertaking consists of two or more undertakings that each prepare accounts, the turnover is to be determined by adding together the respective turnover of each, save that no account is to be taken of any turnover resulting from the supply of products between them.

(2) Where in the accounts or other information used by the CMA to determine turnover of an undertaking or group any figure is expressed in a currency other than sterling, the CMA may determine the equivalent in sterling, applying whatever rate or rates of exchange the CMA considers appropriate and rounding the resulting figure up or down as the CMA considers appropriate.

(3) Where an acquisition, divestment or other transaction or event has occurred since the end of the period by reference to which the turnover of an undertaking or group is determined in accordance with regulation 3 which the CMA considers may have a significant impact on the turnover of the undertaking or group, the CMA may take account of that acquisition, divestment

or transaction or event if the CMA considers it appropriate to do so and accordingly increase or (as the case may be) reduce by such amount as the CMA considers appropriate the amount which would otherwise constitute the turnover of the undertaking or group.

SCHEDULE 3

Regulations 5 and 7

Turnover of a person (penalties for infringements of consumer protection law)

Interpretation

1.—(1) In this Schedule—

"credit institution" means a credit institution as defined in section 417 of the Financial Services and Markets Act 2000 (definitions);

"financial institution" means a financial institution as defined in Article 4(1)(26) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (definitions), or any undertaking located outside the United Kingdom which does not fall within that definition but which carries on equivalent activities;

"insurance undertaking" means—

(a) an insurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(b) a reinsurance undertaking as defined in section 417 of the Financial Services and Markets Act 2000,

(c) an overseas insurance undertaking, or

(d) an overseas reinsurance undertaking;

"overseas insurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance as principal;

"overseas reinsurance undertaking" means an undertaking—

(a) with a head office located in a country or territory other than the United Kingdom, and

(b) which effects or carries out contracts of insurance that are limited to reinsurance contracts as principal;

"product" means—

(a) goods;

(b) services;

(c) digital content.

(2) The provisions of this Schedule are to be interpreted in accordance with generally accepted accounting principles and practices.

Turnover of a person

2.—(1) The turnover of a person is the sum of all amounts derived directly or indirectly by the person from its supply(**a**) of products, after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

(2) Paragraphs 5 and 6 also apply to determine the turnover of a person.

(3) But where all or any of the activities of a person are the activities of a credit institution, a financial institution or an insurance undertaking, paragraph 3 or 4 (as the case may be) applies instead of sub-paragraph (1) to determine the turnover of the person in respect of those activities.

Turnover in respect of activities as a credit institution or financial institution

3.—(1) The turnover of a person in respect of its activities as a credit institution or financial institution is the sum of the following income items received by the person, after the deduction of value added tax and other taxes directly related to those items—

(a) interest income and similar income;

(b) the following income from securities—

(i) income from shares and other variable yield securities;

(ii) income from participating interests;

(iii) income from shares in affiliated undertakings;

(c) commissions receivable;

(d) net profit on financial operations;

(e) other operating income.

(2) Expressions used in sub-paragraph (1) have the meanings given by Council Directive (EEC) 86/635 of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions.

(3) Paragraphs 5 and 6 also apply to determine the turnover of a person in respect of its activities as a credit institution or financial institution.

Turnover in respect of activities as an insurance undertaking

4.—(1) The turnover of a person in respect of its activities as an insurance undertaking is the total value of gross premiums received, comprising all amounts received and receivable in respect of insurance contracts issued by or on behalf of the person, including outgoing reinsurance premiums, and after deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

(2) Paragraphs 5 and 6 also apply to determine the turnover of a person in respect of its activities as an insurance undertaking.

Subsidies

5.—(1) The turnover of a person includes any subsidy given to the person, determined in accordance with this paragraph.

(2) For the purposes of sub-paragraph (1), "subsidy" means financial assistance which—

(a) is given, directly or indirectly, from public resources by a public authority,

(**a**) "Supply" is defined in section 222 of the 2024 Act (for the purposes of Part 3 of that Act only). The term is undefined in the 2015 Act.

(b) confers an economic advantage on one or more businesses, and

(c) is specific such that it benefits one or more businesses over one or more other businesses with respect to the production or supply of products.

(3) For the purposes of sub-paragraph (2), the means by which financial assistance may be given include—

(a) a direct transfer of funds (such as grants or loans);

(b) a contingent transfer of funds (such as guarantees);

(c) the forgoing of revenue that is otherwise due;

(d) the supply of products;

(e) the purchase of products.

(4) For the purposes of sub-paragraph (2)(a), "public authority" means a person who exercises functions of a public nature.

(5) Financial assistance given by a person who is not a public authority is to be treated for the purposes of sub-paragraph (2)(a) as financial assistance given from public resources by a public authority if the involvement of a public authority in the decision to give financial assistance is such that the decision is, in substance, the decision of the public authority.

(6) For the purposes of sub-paragraph (5), the factors which may be taken into account when considering the involvement of a public authority in the decision of a person to give financial assistance include, in particular, factors relating to—

(a) the control exercised over that person by that public authority, or

(b) the relationship between that person and that public authority.

(7) For the purposes of this paragraph, financial assistance is to be treated as given to a person if the person has an enforceable right to the financial assistance.

Further provisions about determining turnover

6.—(1) Where, by reason of section 204(1)(b) or (c) of the 2024 Act (determination of turnover) or (as the case may be) paragraph 16H(1)(b) or (c) of Schedule 5 to the 2015 Act (meaning of turnover for purposes of paragraphs 16A and 16C), the turnover of a person ("A") includes the turnover of one or more other persons, the turnover of A does not include amounts derived from the supply of products between any of those persons, or any of those persons and A.

(2) Where in the accounts or other information used by the court or, as the case may be, the CMA to calculate the turnover of a person any figure is expressed in a currency other than sterling, the court or the CMA may determine the equivalent in sterling, applying whatever rate or rates of exchange the court or the CMA considers appropriate and rounding the resulting figure up or down as the court or the CMA considers appropriate.

(3) Where an acquisition, divestment or other transaction or event has occurred since the end of the period by reference to which the turnover of the person is determined in accordance with regulation 5 or regulation 7 which the court or, as the case may be, the CMA considers may have a significant impact on the turnover of the person, the court or the CMA may take account of that acquisition, divestment or transaction or event if the court or the CMA considers it appropriate to do so and accordingly increase or (as the case may be) reduce by such amount as the court or the CMA considers appropriate the amount which would otherwise constitute the person's turnover.

SCHEDULE 4

Regulation 8

Turnover of an undertaking (penalties for failure to provide information)

Interpretation

1.—(1) In this Schedule, "product" means—

(a) goods;

(b) services;

(c) digital content.

(2) The provisions of this Schedule are to be interpreted in accordance with generally accepted accounting principles and practices.

Turnover of an undertaking

2.—(1) The turnover of an undertaking is the sum of all amounts derived by the undertaking from the supply of products, after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

(2) Paragraphs 3 and 4 also apply to determine the turnover of an undertaking.

Subsidies

3.—(1) The turnover of an undertaking includes any subsidy given to the undertaking, determined in accordance with this paragraph.

(2) For the purposes of sub-paragraph (1), "subsidy" means financial assistance which—

(a) is given, directly or indirectly, from public resources by a public authority,

(b) confers an economic advantage on one or more businesses, and

(c) is specific such that it benefits one or more businesses over one or more other businesses with respect to the production or supply of products.

(3) For the purposes of sub-paragraph (2), the means by which financial assistance may be given include—

(a) a direct transfer of funds (such as grants or loans);

(b) a contingent transfer of funds (such as guarantees);

(c) the forgoing of revenue that is otherwise due;

(d) the supply of products;

(e) the purchase of products.

(4) For the purposes of sub-paragraph (2)(a), "public authority" means a person who exercises functions of a public nature.

(5) Financial assistance given by a person who is not a public authority is to be treated for the purposes of sub-paragraph (2)(a) as financial assistance given from public resources by a public authority if the involvement of a public authority in the decision to give financial assistance is such that the decision is, in substance, the decision of the public authority.

(6) For the purposes of sub-paragraph (5), the factors which may be taken into account when considering the involvement of a public authority in the decision of a person to give financial assistance include, in particular, factors relating to—

(a) the control exercised over that person by that public authority, or

(b) the relationship between that person and that public authority.

(7) For the purposes of this paragraph, financial assistance is to be treated as given to an undertaking if the undertaking has an enforceable right to the financial assistance.

Further provisions about determining turnover

4.—(1) Where an undertaking consists of two or more undertakings that each prepare accounts, the turnover is to be calculated by adding together the respective turnover of each, save that no account is to be taken of any turnover resulting from the supply of products between them.

(2) Where in the accounts or other information used by the CMA to determine turnover of an undertaking any figure is expressed in a currency other than sterling, the CMA may determine the equivalent in sterling, applying whatever rate or rates of exchange the CMA considers appropriate and rounding the resulting figure up or down as the CMA considers appropriate.

(3) Where an acquisition, divestment or other transaction or event has occurred since the end of the period by reference to which the turnover of an undertaking is determined in accordance with regulation 8 which the CMA considers may have a significant impact on the turnover of the undertaking, the CMA may take account of that acquisition, divestment or transaction or event if the CMA considers it appropriate to do so and accordingly increase or (as the case may be) reduce by such amount as the CMA considers appropriate the amount which would otherwise constitute the turnover of the undertaking.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the calculation of turnover for the purposes of the Digital Markets, Competition and Consumers Act 2024 (c. 13) ("the 2024 Act") and the Consumer Rights Act 2015 (c. 15) ("the 2015 Act") as amended by the 2024 Act.

Regulation 2 and Schedule 1 apply in connection with section 7 of the 2024 Act, which concerns strategic market status in the context of digital markets. Regulation 2 and Schedule 1 make provision for estimating the total value of the global turnover or UK turnover of an undertaking or group for the purposes of the turnover condition in section 7 of the 2024 Act.

Regulation 3 and Schedule 2 apply in connection with sections 85 and 87 of the 2024 Act, which concern the failure to comply with certain competition and investigative requirements in the context of digital markets. Regulation 3 and Schedule 2 make provision for determining the turnover and daily turnover of an undertaking or group for the purposes of sections 86(4) and (5) and 88(3) and (4) of the 2024 Act, in respect of calculating the maximum penalties imposed under sections 85 and 87 for failure to comply with certain competition and investigative requirements.

Regulations 4 and 5, and Schedule 3, apply in the context of consumer protection law and the imposition of monetary penalties under the 2024 Act.

Regulation 4 makes provision for determining when a person is to be treated as controlled by another person, for the purposes of calculating the turnover of a person under section 204(1)(b) and (c) of the 2024 Act.

Regulation 5 and Schedule 3 make provision for determining the turnover and daily turnover of a person for the purposes of the following sections of the 2024 Act—

- section 158(5), in respect of calculating the maximum penalties imposed under section 158(2);
- section 168(3)(a) and (b), in respect of calculating the maximum penalties imposed under section 166(5)(b) and 167(4)(b);
- section 182(6), in respect of calculating the maximum penalties imposed under section 182(4)(b);
- section 190(3), in respect of calculating the maximum penalties imposed under section 189(3)(b);
- section 193(3), in respect of calculating the maximum penalties imposed under section 192(3);
- section 198(4), in respect of calculating the maximum penalties imposed under section 198(3).

Regulations 6 and 7, and Schedule 3, apply in the context of consumer protection law and the imposition of monetary penalties under the 2015 Act.

Regulation 6 makes provision for determining when a person is to be treated as controlled by another person, for the purposes of calculating the turnover of a person under paragraph 16H(1)(b) and (c) of Schedule 5 to the 2015 Act (which is inserted by paragraph 2 of Schedule 17 of the 2024 Act on a date to be appointed).

Regulation 7 and Schedule 3 make provision for determining the turnover and daily turnover of a person for the purposes of paragraph 16H(1) of Schedule 5 to the 2015 Act, in respect of calculating the maximum penalties imposed under paragraphs 16A(3) and 16C(2) of that Schedule

for failure to comply with notices requiring the provision of specified information (paragraphs 16A, 16C and 16H are inserted by paragraph 2 of Schedule 17 of the 2024 Act on a date to be appointed).

Regulation 8 and Schedule 4 apply in the context of competition in connection with motor fuel. They make provision for determining the turnover and daily turnover of an undertaking for the purposes of section 312(4) of the 2024 Act, in respect of calculating the maximum penalties imposed under section 312(1) of the 2024 Act for failure to comply with notices requiring the provision of information and other related infringements.

The impact assessments completed for the Digital Markets, Competition and Consumers Bill, introduced to Parliament on 25th April 2023, contain an assessment of the effect that the reforms to the competition regime and consumer protection regime will have on the costs of business, the voluntary sector and the public sector. They are available at: https://bills.parliament.uk/bills/3453/publications. Printed copies can be obtained from the Department for Business and Trade, Old Admiralty Building, Admiralty Place, London SW1A 2DY.

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ISBN 978-0-34-826643-6

£8.14

http://www.legislation.gov.uk/id/uksi/2024/1243

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